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DEPARTMENT OF ENERGY

Notice of Intent and Request for Information regarding establishment of a Civil Nuclear Credit Program

AGENCY: Office of Nuclear Energy, Department of Energy.

ACTION: Notice of intent (NOI); request for information (RFI).

SUMMARY: The Infrastructure Investment and Jobs Act (IIJA or the Act) directs the Secretary of Energy (Secretary) to establish a Civil Nuclear Credit (CNC) Program to evaluate and certify nuclear reactors that are projected to cease operations due to economic factors and to allocate credits to selected certified nuclear reactors via a sealed bid process. The U.S. Department of Energy (DOE or the Department) is issuing this NOI to notify interested parties of DOE's intent to solicit applications for certification of nuclear reactors for eligibility to submit of sealed bids for CNC Program credits from nuclear reactor owners or operators that are at risk of ceasing operations due to economic factors and intent to request sealed bids from certified reactors for allocation of available credits. The NOI provides an opportunity for interested parties to submit to the Department a non-binding notice of their interest in submitting a confidential application for the CNC Program. The Department also seeks input from all stakeholders through this RFI regarding the establishment of a CNC Program including the application, certification, and selection processes.

DATES: Written comments and information are requested on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER].** The Department intends to develop initial draft guidance for the certification applications during the NOI/RFI comment period. It is strongly preferred that respondents comment on issues affecting certification directly via the email address below by **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]**. Comments relating to the certification received after this date may not be included guidance development.

ADDRESSES: Interested parties may submit comments by any of the following methods:

1. *Email*: *rfi-cnc@nuclear.energy.gov (Strongly Preferred)*. Submit electronic comments in Microsoft Word or PDF file format and avoid the use of special characters or any form of encryption. Please include "Response to RFI" in the subject line.
2. *Online: www.regulations.gov.* Submit all electronic public comments to *www.regulations.gov*. Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

   Instructions: All submissions received must include the agency name for this RFI. No facsimiles (faxes) will be accepted. Any information that may be business proprietary and exempt by law from public disclosure should be submitted as described in Section IX.

   Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail and hand delivery/courier, DOE has found it necessary to make temporary modifications to the comment submission process in light of the ongoing COVID-19 pandemic. DOE is currently accepting only electronic submissions at this time. If a commenter finds that this change poses an undue hardship, please contact Office of Nuclear Energy staff at (202) 586-6231 to discuss the need for alternative arrangements. Once the COVID-19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

FOR FURTHER INFORMATION CONTACT: Requests for additional information may be sent to: *rfi-cnc@nuclear.energy.gov.* Questions about the NOI may be addressed to Alden Allen at (208-526-7093). Questions about the RFI may be addressed to Kelly Lefler at (202-586-6231).

SUPPLEMENTARY INFORMATION:

I. Background

Advancing U.S. clean energy, energy security, and economic competitiveness enabled by reliable electricity generation is a priority of the Administration.[1] As energy markets and economic circumstances continue to shift, multiple zero-emission nuclear generation assets are at risk for early closure, and several have already closed prematurely due to economic circumstances. Such closures have resulted in increased air pollution in communities, including disadvantaged communities, where fossil generation has replaced lost nuclear generation, materially impeded the national goal of carbon pollution-free electricity by 2035, and cost the nation thousands of high-quality union jobs. Further closures threaten to exacerbate these issues. Congress has appropriated funds to be allocated by DOE, using a credit allocation process, to certified nuclear reactors to prevent closure of carbon-free nuclear generation due to economic factors. DOE intends to execute the CNC Program in a manner that maximizes its contribution to the national objectives of clean energy generation, energy security and stability, and economic competitiveness.

The IIJA directs the Secretary to certify operating nuclear reactors under the CNC Program based on determinations that each reactor is projected to cease operations due to economic factors, that cessation of operations would result in a projected increase in air pollutants, and that the U.S. Nuclear Regulatory Commission (NRC) has reasonable assurance that the reactor will continue to operate safely. Congress has appropriated $6 billion to fund credits awarded under the CNC Program and has authorized the Secretary to obligate up to $1.2 billion in Fiscal Year 2022. Amounts in excess of $1.2 billion required to fund awarded credits for subsequent fiscal years can be disbursed subject to the availability of funds.

As required by the Act, the Secretary will certify those reactors that meet the criteria for CNC Program eligibility, establish a process for submittal of sealed bids from certified reactors, and allocate credits to selected certified reactors, noting certain priority considerations. Credits will

[1] The White House, Fact Sheet: President Biden's Leaders Summit on Climate, April 23, 2021, *available at https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/23/fact-sheet-president-bidens-leaders-summit-on-climate/*.

be awarded over a 4-year period beginning on the date of the selection. Nuclear reactor owners or operators may apply for recertification after that time and additional credits may be allocated through September 30, 2031, subject to the availability of funds.

To be certified by DOE for eligibility to submit a bid for credits, a nuclear reactor must meet certain economic and other criteria. The Act delineates specific eligibility criteria and provides discretion for the Secretary to define additional eligibility criteria for certification of a qualifying nuclear reactor. The Secretary intends to issue a detailed Request for Applications for Certification (Request for Applications) and, from certified reactors, request sealed bids. Such Request for Applications will explain the evaluation framework and criteria for certification. The requirements of the subsequent sealed bid auction for credits may be published either in the Request for Applications or a subsequent guidance document. In establishing and administering the CNC Program, DOE will comply with all applicable statutes and regulations, including those requiring environmental review processes.

II. Purpose

This NOI/RFI provides notice of DOE's intent to establish and implement the CNC Program and solicits feedback regarding the proposed approach described in this NOI/RFI. DOE's proposed approach includes a Request for Applications to certify nuclear reactors for eligibility to submit bids for allocation of credits. DOE intends to evaluate such applications and certify reactors meeting the statutory requirements and then conduct a competitive bidding process for bids from certified nuclear reactors for allocation of available credits, and establish a periodic audit, as specified in section 40323 of the Act. In addition, DOE requests that interested parties submit to the Department a confidential, non-binding notice of their interest in submitting a confidential application for the CNC Program.

III. Proposed Approach

DOE proposes the following key elements and related rationale to guide its evaluation of applications for certification. DOE intends to administer the CNC Program pursuant to the

authority provided in the IIJA. Although DOE may develop a process that draws on concepts in the Federal Acquisition Regulation and Federal financial assistance regulations, those regulations do not govern the CNC Program. Therefore, terms such as "application," "proposal," or "bid" should be construed in the context of the CNC Program and not as commonly used in procurement or financial assistance actions. Feedback is solicited on each element, as well as the overall approach described.

(1) *Inclusivity.* Pursuant to section 40323(e)(3) of IIJA, DOE intends to utilize, to the maximum extent practicable, spending authority created by the Act to *allocate credits to as many certified nuclear reactors as possible*. DOE encourages the submission of applications for certification from all operating nuclear reactors that project ceasing operation due to economic factors and meet other criteria as specified.

(2) *Confidentiality.* DOE will protect confidential, private, proprietary, or privileged business information from public release as allowed by statute and regulation unless otherwise approved by the applicant. Unless and until an applicant receives an award, DOE will treat the identity of each applicant and other identifying information as confidential business information for purposes of the Freedom of Information Act.

(3) *Acceptance of Applications.* The Act directs that the Secretary accept reactor certification applications for 120 days following the Act's enactment, after which time the Secretary will evaluate and issue a decision on certification within 60 days. Reactors that receive State assistance including State zero-emission credits, State clean energy contracts, or other State program assistance may apply for certification beginning after the initial 120-day period. All non-certified reactors may apply during subsequent annual application periods. DOE proposes that applications for certification should be submitted for each individual reactor seeking credits. An exception is offered if the applicant asserts that there are multiple units at a given site with substantially identical financial situations, operations structures, and costs in which case a single application can be made

for multiple reactors. In this circumstance, DOE proposes that the applicant should delineate in the single application the attributes of each individual reactor.

(4) *Standards of Analyses and Representation.* Recognizing that the economic factors facing each reactor are specific to each owner and/or operator, and further recognizing that operating and market assessments may be inherently uncertain, DOE proposes to request that applicants for certification make a representation of the economic situation of the reactor. Applicants may be required to provide their modeling approach, data, and methodology to support their claim of projected ceasing operations, and describe how its modeling approach, data, and methodology are consistent with those it makes for other business planning and filings, or fully explain any inconsistencies. DOE seeks comment on whether it should establish a standard modeling approach and methodology that each applicant must complete as part of the application for certification in addition to, or instead of, any modeling approach and methodology that an applicant may propose. DOE anticipates that applicants will provide both publicly available and privately held data to validate the assumptions, data and methodologies used. DOE also anticipates that the rules governing the protection of business proprietary and procurement sensitive information may apply to the documentation submitted by applicants. As such, applicants will be expected to mark all submitted documents appropriately as described in Section IX.

(5) *Evaluation of Applications for Certification.* DOE proposes to establish a review process, using a review panel comprised of DOE personnel. The panel will verify that the applicant has addressed each relevant aspect of certification, consistent with requirements and evaluation criteria as specified in the Request for Application.

(6) *NRC Assurance.* DOE intends to rely on the NRC to indicate whether they have reasonable assurance that a reactor will continue to be operated in accordance with the current licensing basis and poses no significant safety hazards.

(7) *Consultation with Heads of Other Agencies.* The Secretary will establish a process for the evaluation of bids in consultation with the heads of other applicable federal agencies.

(8) *Terminology.* For the purposes of the CNC Program, DOE proposes that the term "credit" describes a claim to funds appropriated by the Act and administered through the CNC Program to successful applicants. A "reactor" is defined as an individual unit.

(9) *Credit Allocation and Funds Disbursement.* DOE intends to allocate credits to as many certified nuclear reactors as possible consistent with the intent of the Act. Each award is intended to cover a 4-year period, with funds distributed annually based on the allocation of credits. DOE may obligate up to $1.2 billion of appropriated funds in Fiscal Year 2022 for the CNC Program and amounts in excess of $1.2 billion required to fund awarded credits for subsequent fiscal years will be subject to the availability of funds.

(10) *Audit.* Market and operations circumstances may change over the award period, and the economic loss forecasted in the nuclear reactor's original bid may, in practice, be over- or underestimated. DOE intends to conduct a periodic audit of awardees, requesting a yearly operational and economic report from each awardee to assess any divergences from the projections made at the time of certification and the actual situation in each year with respect to economic circumstances and status of the awardee's contractual commitments, such as megawatt-hours produced and other applicable contractual requirements. The schedule for annual reporting and funds disbursement will be determined by DOE and will consider the awardee's business processes, to the extent practical.

(11) *Adjustment.* In the event that actual economic performance during the period is such that the nuclear reactor did "not operate at an annual loss in the absence of an allocation of credits," section 40323(g)(2) of the Act requires DOE to provide for recapture of allocated credits. As a means to reduce the need for recapture, it may be appropriate for DOE to create an annual settlement mechanism through which the value

of a reactor's credit allocation would be adjusted based on the bundle of market prices to which it is exposed. In this manner, several State zero emissions credits (ZEC) programs use market indices to adjust ZEC values. Applicants may be required to propose an index mechanism or a strike price against which market price values would be netted, or DOE may select a generic index or indexing methodology to be applied to all applications. If an indexing mechanism is employed, DOE proposes the index should be tied to economic factors related to the nuclear reactor's operating profit or loss, and might include, for example, change in energy and capacity prices and benefits received from federal and state programs such as tax credits that reduce economic loss. It may also be prudent to place a ceiling on the adjusted credit value, for example to ensure that falling market prices do not cause DOE to owe more in a given fiscal year than its total amount of appropriated funds available.

(12) *Recapture.* If an adjustment to allocated credits as described above is not possible despite material changes in economic performance, or if the reactor terminates operations, DOE may recapture the allocation of credits in part or in whole in accordance with the Act. The Act directs the Secretary to provide for the recapture of an allocation of credits from a nuclear reactor if the nuclear reactor (a) terminates operations; or (b) does not operate at an annual loss in the absence of an allocation of credits.

In addition to feedback on each element described, specific questions regarding the design of the CNC Program are provided in Section VI.

IV. Certification Criteria

To implement the requirements of the CNC Program, DOE will establish a certification process to solicit applications from reactor owners and operators to establish eligibility for certification to be eligible to submit a sealed bid for allocation of credits. The applicant representing a nuclear reactor that is projected to cease operations due to economic factors will be required to submit to the Secretary information necessary to meet the minimum criteria to be certified. The

Secretary will evaluate this information to determine if the nuclear reactor meets the minimum certification requirements to be eligible to submit a bid to be allocated credits, as established in section 40323(c)(2)(A)(ii) of the Act. DOE intends to evaluate seven certification categories as outlined in the Act. These categories include:

- **Category 1 - Competitive Electricity Market:** The applicant must demonstrate that the nuclear reactor competes in a competitive electricity market.
- **Category 2 - Economic Factors:** The applicant must demonstrate that the nuclear reactor is projected to cease operations due to economic factors. Applicants must include information on the operating costs necessary to make the certification determination, including, but not limited to, average annual operating loss per megawatt hour over the 4-year period for which credits would be allocated.
- **Category 3 - Emissions Impact:** The applicant must estimate the potential incremental air pollutants that would result if the nuclear reactor were to cease operation. Applicants must demonstrate an increase in these emissions if operations of the nuclear reactor were to cease and the power generation were replaced with other types of generation.
- **Category 4 - Post-Support Operations Plan:** The applicant must provide a plan to sustain operation of the reactor after the 4-year award period, either without future credits or with a reduced level of credits.
- **Category 5 - Uranium and Fuel Source:** The applicant must identify, to the extent known, where fuel for the reactor will be sourced over the 4-year period for which credits may be allocated, including the uranium, conversion, enrichment, and fabrication source. In determining whether to certify a reactor, priority will be given to a nuclear reactor that uses, to the maximum extent available, uranium that is produced, converted, enriched, and fabricated into fuel assemblies in the United States.

- **Category 6 - NRC Assurance:** The NRC has reasonable assurance the reactor will continue to be operated in accordance with the current licensing basis and poses no significant safety hazards.
- **Category 7 – Other Criteria:** Other criteria that may be identified by the Secretary to be considered in certification.

A general description of DOE's proposed evaluation consideration in each certification category is described below. Feedback is solicited regarding the intent and rationale described in each category, and/or terminology used and other aspects of the proposed criteria or additional criteria that might be considered. Additional, specific questions regarding the proposed evaluation considerations are provided in Section VI.

Category 1 – Compete in a Competitive Electricity Market.

To be eligible for certification, section 40323(a) of the Act requires that a nuclear reactor "competes in a competitive electricity market." DOE proposes to interpret the Act as independent of reactor ownership. That is, a reactor may be deemed to compete in a competitive electricity market regardless of whether it is owned by a merchant generation company, a regulated utility, a public power utility, or another entity. DOE proposes the applicant should describe in detail how it competes in a competitive electricity market based on its exposure to market prices and other factors. DOE solicits comment on whether and under what circumstances the following commercial arrangements would qualify as competing in a competitive market:

- Market dispatch (i.e., based on bids) by an Independent System Operator or Regional Transmission Organization (e.g., ISO New England, New York Independent System Operator, PJM Interconnection, Midcontinent Independent System Operator, Electric Reliability Council of Texas, Southwest Power Pool, and California Independent System Operator) in a real time energy market;

- Participation in another market-based selection mechanism for electricity services such as a capacity market, ancillary services market, or day-ahead energy market;
- Sales from the nuclear reactor using Federal Energy Regulatory Commission market-based rate authority;
- Merit order dispatch (i.e., based on economics and impact on total system costs) by a vertically integrated utility; and
- Selection in an all-source competitive solicitation process administered by a State public utility commission.

Category 2 – Economic Factors.

Section 40323(c) of the Act sets out the requirements for certification of an eligible nuclear reactor. To be eligible for certification, the Act requires that the nuclear reactor is projected to cease operations due to economic factors. DOE proposes that:

(a) Economic factors include, but are not limited to, the following: anticipated cost of producing electricity; anticipated market pricing, including all out-of-market revenues; regulated revenues; monetization of risk using reasonable and appropriate methods for the specific market, which may include impacts of renewable and clean energy mandates, energy source and delivery mandates, and others; operations and maintenance costs; capital costs, including depreciation and amortization; administrative costs, including corporate and similar allocations; and accounting for the operational risk and market risks faced. The sum of these factors provides a projection of the average profit, or loss, associated with the ongoing operation of the reactor, for each year in the prospective 4-year award period. Information will be requested for each year of the 4-year period, showing anticipated yearly changes (e.g., outages, etc.). To be certified as eligible to submit a bid for credits, DOE proposes that the nuclear reactor must demonstrate that it projects an average annual operating loss over the 4-year period for which credits would be allocated.

(b) Consistent with the Act, DOE will consider all sources of revenue that a nuclear power owner or operator receives or expects to receive in the 4-year period during which credits would be allocated. For example, revenue may come from short-term power sales, power contracts, electricity and capacity markets, ZEC payments, revenue from other energy services (i.e., ancillary services), revenue from other products (e.g., heat energy, desalinated water, and hydrogen), and other federal and state programs, including tax credits. With respect to a regulated or public power utility (e.g., with cost recovery in retail rates) revenue would also include amounts collected in rates relating to or arising from the nuclear reactor for which certification is sought.

(c) The representation of economic circumstance should be made by the reactor owner or operator, consistent with market analyses, operations cost assessments, risk (operations, business, market, or other) monetization and analyses, and other standards used by the owner or operator in their standard business process associated with the specific reactor(s).

(d) The application for certification should clearly state what business, operational, and market risk is relevant to the operating unit profitability, and how those risks are monetized. DOE proposes to interpret the Act as considering a wide range of business, operational, and market risk factors. Any such risk that may result in the early closure of an operating nuclear reactor would be relevant. Applicants should explain each risk and provide estimates of the financial/economic impact of the risk for the nuclear reactor. DOE is seeking comment on types of risk to consider and whether it should consider a wide range of risk factors.

(e) The applicant should provide the analysis used to calculate its economic circumstance and a description of key factors and inputs used in these analyses, describe the sensitivity of the analyses to key factors, discuss uncertainties associated with the projections, and

describe why the assumptions used in the analyses and the inputs are reasonable based on the applicant's market circumstance.

(f) The revenue assessment used to calculate economic circumstance must include all payments projected to be received as a result of State and Federal support programs. If such funds, or a portion of such funds, would cease if an award is made by the CNC Program, then this expected change should be reflected in the assessment.

(g) The applicant should describe how the method of analyses of economic circumstance is consistent with that used in other decision making (e.g., rate cases, tax filings, insurance statements, filings with the Securities and Exchange Commission), or why there would be a difference in the method or outcome of analyses.

Category 3 – Emissions Impact.

To be eligible for certification, the applicant must provide an estimate of the impact of reactor closure on emission of air pollutants. The Secretary must assess this information and determine that emission of air pollutants would reasonably be expected to increase if the reactor ceases operations. DOE proposes to consider estimates containing the following information:

(a) Assessment of the impact on emissions based on the six (6) criteria air pollutants (carbon monoxide, lead, ground-level ozone, particulate matter, nitrogen dioxide, and sulfur dioxide) defined by the U.S. Environmental Protection Agency (EPA), as well as carbon dioxide and methane.

(b) Air emissions estimates based on the emissions characteristics of the capacity and electricity generation expected to replace the capacity and electricity generation supplied by the reactor.

(c) A description of how the applicant arrived at the estimate of emissions impacts.

Category 4 – Post-Support Operations Plan.

To be eligible for certification, the applicant must provide a detailed plan to sustain operations at the conclusion of the award period. The Act states that this plan may include a planning basis of

either receiving additional support (credits) at a reduced level than anticipated for the initial award period or one where no additional support (credits) is received. DOE recognizes that at the time of application for certification, the applicant will not know what level of assistance may be provided through the CNC Program, and that post-support operations plans will be uncertain because of this and other factors. DOE proposes that:

(a) The required detailed plan to sustain operations post-support include an overview description of actions that may be taken by the applicant after the award period, possible changes in market conditions over the 4-year award period, or other circumstances or factors that may be anticipated during the award period that will alter the economic assessment provided and the level of requested assistance (credits).

(b) The assessment of post-award planning should be consistent with analyses, assumptions, data, and methodologies used in declaring the economic circumstance of the reactor (Category 2 previously), while accounting for impact of receiving some level of assistance (credits).

Category 5 – Uranium and Fuel Source.

The Act requires an applicant for certification to provide information on the source of the uranium and the location where it is processed and manufactured into fuel. DOE proposes that:

(a) The applicant includes in the application for certification information regarding the countries of origin of the uranium planned to be used in the award period, where it was/will be converted and enriched, and where the fuel was/will be fabricated, to the extent this is known or can be reasonably estimated.

(b) The certification requirements do not include any specific sourcing requirement in determining whether to certify, but that priority be given to reactors that use, to the maximum extent available, uranium that is produced, converted, enriched and fabricated into fuel assemblies in the United States.

Category 6 – NRC Assurance.

The Act requires that the NRC has reasonable assurance that the nuclear reactor will continue to operate in accordance with its current licensing basis and that it poses no significant safety hazards. DOE intends to rely on input from the NRC to meet this requirement.

Category 7 – Other Information.

The Act provides the Secretary authority to require an applicant to submit other information the Secretary determines to be appropriate in meeting the fundamental objective of the Act—to enable clean and safe energy generation. This other information may include external and internal impacts to the applicant (i.e., owner or operator of a nuclear reactor) that may not be covered in the above-stated certification criteria. Relevant questions as to whether DOE should consider additional criteria for certification are included in Section VI.

V. Civil Nuclear Credit Program Process

Key steps in the process that DOE proposes for the Civil Nuclear Credit Program are described below, including evaluation of applications for certification, bids for credits, credit allocation, and funds distribution. DOE requests feedback on each element of the process, as well as on the specific questions described in Section VI.

a. Evaluation of Applications for Certification. As provided in section 40323(c)(1)(B) of the Act, certification applications from nuclear reactors not presently receiving assistance from State programs will be accepted during the initial application period. DOE will evaluate all submissions and determine eligibility for certification within 60 days, including notifying each applicant if the application was certified or describing the reasons why the certification was denied. DOE may request additional information after submission of initial applications. After the initial application period described above, DOE will conduct another application period for certification of nuclear reactors that are receiving State assistance, and others that had not previously applied. DOE intends to establish an annual application process following these initial application periods for all non-certified reactors.

DOE intends to establish a review panel to evaluate applications for certification. The review will consist of an assessment of whether the information and data provided by the applicant are sufficient to meet the requirements for certification as stated in the Act and articulated in the Request for Applications of a nuclear reactor.

The Secretary will make the final determination on certification. If a nuclear reactor is certified, the applicant will be invited to submit a sealed bid for credits.

b. Bids for Credits. DOE proposes to establish a process for certified nuclear reactors to submit sealed bids for credits with a deadline that is not more than 30 days following notification of the nuclear reactor's certification. The sealed bids should include the information and data outlined in section 40323(d) of the Act. Bidders should submit bids for credits which describe a price per megawatt-hour and commitment to provide generation in megawatt-hours for a 4-year period.

c. Allocation of Credits and Funds Distribution. DOE will establish a review panel, which may be comprised of the same experts as described in the Evaluation of Applications for Certification above, to evaluate submitted sealed bids for credits from certified nuclear reactors. The review panel will evaluate the bids and make its recommendation to the Secretary for selection of certified nuclear reactors to be allocated credits. DOE proposes to award credits by starting with the most cost-effective bids and proceeding until available funds are exhausted. DOE intends to allocate as many credits as available funds allow over the lifetime of the program.

VI. Questions for Request for Information

With this RFI, DOE seeks comments regarding all elements of the proposed approach for the CNC Program described in the previous sections. In addition, DOE seeks comment on the following specific questions:

(1) Do the proposed approach and considerations for certification of a qualified nuclear reactor, including key aspects of CNC Program implementation and other aspects and outcomes of the CNC Program, as described in Section III, support the intent of

Congress to assist nuclear reactors at risk of early closure? Why or why not? If not, please suggest alternative approaches to be considered.

(2) Are the evaluation criteria being considered for certification as described in this RFI appropriate? If not, please suggest alternative criteria.

(3) Is the information requested for the applications for certification appropriate and sufficient? Why or why not?

(4) Is the proposed CNC Program structure, including timing, process, and evaluation approach for certification, acceptance of bids, credit allocation, and periodic audits appropriate? If not, please suggest alternatives.

(5) Please identify any regulatory or business barriers that might impede the implementation of the CNC Program. Please propose solutions to eliminate or mitigate any identified barriers.

(6) Should DOE establish a standard format and methodology for each applicant to present economic data, projections, analysis, and other information in support of an application for certification? If so, please address the components that should be included as part of a standard format and methodology and what information should be required.

(7) What information should be considered by the Secretary in assessments of the marginal impact of projected reactor closures on emission of air pollutants? Should a standard methodology be adopted to address estimation of incremental air pollutants? Why or why not? What methodologies could be considered?

(8) How should the certification methodology prioritize reactors that utilize U.S.-produced fuel and fuel constituents? Are there additional criteria that should be prioritized, and if so, how?

(9) Is the use of an indexing mechanism to re-set annually the value of credits allocated to a nuclear reactor as described herein appropriate? Please consider the advantages

and disadvantages of such an approach and the basis for such an approach. Should the indexing mechanism be subject to a floor and/or cap? How would an indexing mechanism interact with the recapture provision discussed herein?

(10) Using the bid requirements in the Act of price per megawatt-hour and megawatt-hour commitment for a 4-year period, should DOE award credits starting with the lowest price bid and continuing until available funds are exhausted? What policy considerations or parameters other than bid price would inform the determination of which bids would most cost-effectively achieve the objectives of the Act? Should DOE use any other methodology or criteria for awarding credits to bidders?

(11) How should DOE incorporate evaluation of the impacts of the closure or continued operation of nuclear reactors on disadvantaged communities?

(12) Please provide any other input DOE should consider in the establishment and implementation of the CNC Program, including any other information and criteria that might be useful in DOE's approach for and implementation of both the certification process and the sealed-bid process for credits.

DOE requests expedited submission of comments on the proposed approach to certification and the specific questions with respect to certification.

VII. Request for Statements of Interest

DOE intends to solicit applications for certification and, for certified reactors, sealed bids. In order to provide advance notice of the number and type of nuclear reactors (i.e., those that are or are not receiving State support) that may wish to participate in the program, DOE is requesting non-binding statements of interest. Submissions that comply with relevant requirements outlined in Section IX regarding Business Proprietary Information will be kept confidential. Unless and until an applicant receives an award, DOE will treat the identity of each applicant and other

identifying information as confidential business information for purposes of the Freedom of Information Act.

VIII. Response Guidelines

NOI responses shall include:

- NOI/RFI title and reference number;
- Name(s), phone number(s), and e-mail address(es) for the principal point(s) of contact;
- Institution or organization affiliation and postal address; and
- Your organization's non-binding expression of interest in the CNC Program.

NOI responses shall be emailed directly to Alden Allen, DOE Contract Specialist, at: *noi-cnc@id.doe.gov*.

RFI responses shall include:

- NOI/RFI title and reference number;
- Name(s), phone number(s), and e-mail address(es) for the principal point(s) of contact;
- Institution or organization affiliation and postal address; and
- Clear indication of the specific question(s) to which you are responding.

Responses including proprietary information will be handled per guidance in Section IX.

RFI responses shall be emailed to *rfi-cnc@nuclear.energy.gov* or submitted electronically to *www.regulations.gov,* as described previously.

IX. Business Proprietary Information

Pursuant to 10 CFR 1004.11, any person submitting information he or she believes to be business proprietary and exempt by law from public disclosure should submit via email two qwell-marked copies: One copy of the document marked "Business Proprietary" including all the information believed to be proprietary, and one copy of the document marked "non-Proprietary" deleting all information believed to be business proprietary. DOE will make its own determination about the business proprietary status of the information and treat it according to its determination. Factors of interest to DOE when evaluating requests to treat submitted

information as business proprietary include: (1) a description of the items; (2) whether and why such items are customarily treated as business proprietary within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its business proprietary nature; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its business proprietary character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

Signing Authority

This document of the Department of Energy was signed on February 9, 2022, by Andrew Griffith, Deputy Assistant Secretary for Nuclear Fuel Cycle and Supply Chain, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on February 9, 2022.

Treena V. Garrett,

Federal Register Liaison Officer,

U.S. Department of Energy.

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